



In the Matter of:

JOHN DELCORE,

ARB CASE NO. 96-161

COMPLAINANT,

ALJ CASE NO. 89-ERA-38

v.

DATE: October 31, 1996

**W.J. BARNEY CORP. AND THE
CONNECTICUT LIGHT AND
POWER CO. d/b/a NORTHEAST
UTILITIES SERVICE CO.,**

RESPONDENTS.

BEFORE: THE ADMINISTRATIVE REVIEW BOARD¹

ORDER

Complainant has petitioned for an award of costs and expenses, including attorney fees, incurred in this case arising under the employee protection provision of the Energy Reorganization Act of 1974 (ERA), 42 U.S.C. § 5851 (1994). The petition addresses costs and expenses incurred during appeal of the administrative decision to the U.S. Court of Appeals for the Second Circuit. *Blackburn v. Reich*, 79 F.3d 1375, 1379 (4th Cir. 1996) (“fees related to prosecuting an appeal before the court of appeals are ‘costs . . . incurred . . . in connection with the bringing of [a] complaint’ under § 5851 (b) . . .”). *Contra Deford v. Secretary of Labor*, 715 F.2d 231, 232-233 (6th Cir. 1983). Complainant participated in the appeal as an intervenor. Respondents have not opposed the petition. We find the reasoning in *Blackburn v. Reich* to be persuasive. The petitioned costs and expenses being reasonably incurred, Respondents are

¹ On April 17, 1996, the Secretary of Labor delegated authority to issue final agency decisions under, *inter alia*, the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5851 (1994), and the implementing regulations, 29 C.F.R. Part 24 (1996), to the Administrative Review Board Secretary’s Order 2-96, 61 Fed. Reg. 19978 (May 3, 1996). Secretary’s Order 2-96 contains a comprehensive list of the statutes, executive order and regulations under which the Board now issues agency decisions.

ordered to pay Complainant's attorney fees in the amount of \$12,199.95 and costs in the amount of \$122.28.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member